

Remarks/Arguments

This is responsive to the Office Action mailed April 5, 2006. The amendments and accompanying remarks are proper, serve to more particularly point out and distinctly claim that which is patentable over the references of record, do not introduce new matter, do not require additional searching, and are not narrowing in view of a rejection over a cited reference.

Rejection Under 35 USC 103

Claims 1-21 stand rejected as being unpatentable over Frees '059 in view of Watanabe '189.

Applicant reiterates from its previous Response of 1/18/2006 (ppg. 9-11, incorporated by reference herein) that the Examiner has failed to substantiate the requisite prima facie case of obviousness because the cited references do not, neither alone nor in combination, teach or suggest all the features of the present embodiments as recited by each of the independent claims, which include at least the following:

A servo track writer assembly...comprising...a gas-lubricated bearing... a working fluid comprising helium....
(excerpt of claim 1, emphasis added)

A method for recording servo pattern information on a disc, the method comprising...spatially separating opposing bearing surfaces... a working fluid in a gas-lubricated bearing....
(excerpt of claim 11, emphasis added)

A gas-lubricated bearing... a working fluid comprising helium.

(claim 21, emphasis added)

However, Applicant has amended these claims without prejudice solely in order to facilitate progress on the merits in this case. In the Examiner's present remarks it is stated:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the feature(s) upon which applicant relies, e.g., that the gas-lubricated bearing is "a bearing wherein the opposing bearing surfaces are spatially supported in non-contacting engagement," is not recited in the rejected claim(s)...Without the specific structure of this particular bearing recited in the claim(s), it is maintained that the present language in the claim(s) does not overcome the applied prior art.

(Office Action of 4/5/2006, pg. 6, emphasis added)

Applicant reiterates that reciting the specific structure of the claimed *gas-lubricated bearing* is not necessary for the skilled artisan to distinguish the claimed embodiments from the roller bearing type spindle apparatus of Watanabe '189. This is because the term *gas-lubricated bearing*, or "fluid bearing," is a term of art with ordinary meaning associated with hydrostatic bearings or hydrodynamic bearings, not roller bearings.

Nonetheless, adding the specific structure as in the present amendments does not narrow the claim scope, but rather it just makes explicit what was before readily implicit to the skilled artisan.

The Examiner's response indicates that adding the specific structure to more particularly point out and distinctly claim the *gas-lubricated bearing* obviates the rejection. Applicant has amended independent claims 1, 11, and 21 to that end. Reconsideration and

withdrawal of the present rejection of claims 1, 11, and 21 are respectfully requested.

Claims 2-10, and 12-20 are allowable as dependent claims of an allowable independent claim, for reasons above, that recite additional limitations thereto. Reconsideration and withdrawal of the present rejection of these dependent claims are respectfully requested.

Absent the requested reconsideration, this case is not in condition for appeal because the Examiner has failed to substantiate a prima facie case of obviousness by showing that the cited references teach or suggest all the features of the present embodiments as claimed.

Allowable Subject Matter

Applicant gratefully acknowledges the indication of allowable subject matter in claim 17. However, Applicant has opted not to place claim 17 in independent form at this time because the independent claim from which it depends is allowable for the reasons above.

Conclusion

This is a complete response to the Office Action mailed April 5, 2006. The Applicant requests reconsideration and withdrawal of all rejections.

The Applicant has also included herewith a request for telephone interview to clarify any unresolved issues preventing this case from passing to issuance, or otherwise preventing this case from being in condition for appeal.

The Examiner is invited to contact the Attorneys listed below should any questions arise concerning this response or request for interview.

Respectfully submitted,

By: 

Mitchell K. McCarthy, Registration No. 38,794
Randall K. McCarthy, Registration No. 39,297
Fellers, Snider, Blankenship, Bailey and Tippens, P.C.
100 N. Broadway, Suite 1700
Oklahoma City, Oklahoma 73102
Telephone: (405) 232-0621
Facsimile: (405) 232-9659
Customer No. 33900